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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,049	07/25/2001	Andreas Dieberger	YOR9-2001-0385 (8728-520)	6021
46069 7590 07/01/2009 F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			EXAMINER VAN BRAMER, JOHN W	
			ART UNIT 3622	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/915,049	<b>Applicant(s)</b> DIEBERGER ET AL.	
	<b>Examiner</b> JOHN VAN BRAMER	<b>Art Unit</b> 3622	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,8-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on March 11, 2009, cancelled no claims. No new claims were added and claims 1 and 14 were amended. Thus the currently pending claims are 1-6, 8-16, and 18-20.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd (U.S. Patent Number: 6,484,148).

Claim 1: Boyd discloses a computer readable medium embodying instructions executable by a processor to perform a method for displaying content on a display device:

- a. Retrieving a plurality of rules, each rule associated with controlling the display of content, wherein the content is provided by a content provider. (Col 9, lines 25-67; and Col 13, lines 22-37)

- b. Updating a plurality of device parameters, wherein at least one device parameter is updated in response to detecting of one of a radio frequency identification tag and an infrared tag. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65) (EZ Pass transponders are radio frequency identification tags)
- c. Triggering at least two rules of the plurality of rules satisfied by the plurality of device parameters. (Col 7, lines 25-57; Col 8, lines 23-65)
- d. Executing the at least two satisfied rules in response to the detection of the radio frequency identification tag or the infrared tag be detected. (Col 7, lines 25-57; Col 8, lines 23-65; and Col 10, 11-14)
- e. Displaying a first portion of the content according to a first satisfied rule of the two triggered rules. (Col 7, lines 25-57; Col 8, lines 23-65)
- e. Preventing the display of a second portion of the content according to a second rule of the two triggered rules, wherein the second rule overrides all other rules for the display of the second portion of the content. (Col 9, lines 25-67; and Col 13, lines 22-37. According to the triggering step it is only necessary to trigger two rules. The first rule is associated with the first portion of content and display occurs in the display step. The second rule prevents the display of the second portion of content. Thus, the wherein clause which indicates that the second rule overrides any all other rules is non-limiting because there are no additional rules required, and thus no further rules to be overridden.)

- f. Determining a fee according to the first rule of the triggered rules, wherein the content provider is charged a fee. (Col 7, lines 25-57; Col 8, lines 23-65)

While Boyd does not specifically state that the preventing of the displayed of a second portion of the content is done in accordance with a second satisfied rule he does state that the system allows advertiser's to place conditions on when an ad is displayed in Col 13, lines 22-28. The specific rules he provides for examples are positive rules such as display the advertisement if the customer is a male, at least 35 years old, has an income greater than \$80,000, and it is during the winter months. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made that any positive rule can also be written as a negative rule in order to achieve the same results. An advertiser could target the same individuals by creating the rule in negative form such as do not display the advertisement if the customer is not a male, younger than 35 years old, has an income less than \$80,000.01, and it is not winter. The rationale for writing rules in such a manner is that Boyd allows the advertisers to place the conditions and there are a limited number of predictable ways in which an advertiser can create conditional rules. They can create positive rules, negative rules, or combination of positive and negative rules. The decision as to whether an advertiser places the condition in a positive form or a negative form is a matter of design choice on the part of the advertiser creating the rule.

Claim 2: Boyd discloses the method of claim 1, wherein at least one rule is defined by the content provider to dynamically control the display of the content according to the device parameters. (Col 8, lines 23-65)

Claim 3: Boyd discloses the method of claim 1, wherein the step of executing the at least one triggered rule further comprises the step of receiving a rule trigger from one of a location handler and a signal handler. (Col 7, lines 25-57; Col 8, lines 23-65)

Claim 4: Boyd discloses the method of claim 3, wherein the step of receiving a rule trigger from the location handler further comprises the step of updating a positional parameter. (Col 12, lines 14-40; and Col 13, lines 29-37)

Claim 5: Boyd discloses the method of claim 3, wherein the step of receiving a rule trigger from the signal handler further comprises the steps of:

- a. Interpreting an input signal (Col 6, lines 35-58)
- b. Generating a programmatic event flag (Col 6, lines 35-58)

Claim 6: Boyd discloses the method of claim 5, wherein the step of generating a programmatic event flag further comprises the step of generating one of a reply signal and the rule trigger. (Col 6, lines 35-58)

Claim 8: Boyd discloses the method of claim 1, wherein the step of determining a fee further comprises the steps of:

- a. Determining a value for each of the device parameters (Col 8, lines 23-65)
- b. Determining at least one device parameter satisfying the triggered rule (Col 8, lines 23-65)
- c. Determining the fee according to value of the device parameters satisfying the triggered rule. (Col 8, lines 23-65)

Claim 9: Boyd discloses the method of claim 8, further comprising the step of charging the fee to a client providing content to be displayed. (Col 8, lines 23-65)

Claims 10 and 11: Boyd discloses the method of claim 8, further comprising the step of apportioning fees (Col 8, lines 23-65). However, Boyd is silent with regard to various permutations in which fee apportionment might entail. The teachings of Boyd describe the display system itself and not who owns and operates the display system. It would have been obvious to one of ordinary skill in the art at the time of the invention that the service provider (entity that runs, operates and/or owns the display device) would need to reimburse the third party carrier (i.e. taxi company, billboard owners, etc) for allowing them to put the display on the carrier's physical property (i.e. taxi cabs, etc.). One would have been motivated to institute such a reimbursement in order to provide the third party carrier with an incentive to install the display to help in the defrayment of operating costs.

Claim 12: Boyd discloses the method of claim 8, further comprising the step of apportioning the fees (Col 8, lines 23-65). However, Boyd is silent with regard to various permutations in which fee apportionment might entail. The teachings of Boyd describe the display system itself and not who owns and operates the display system. It would have been obvious to one of ordinary skill in the art at the time the invention was made that when the device is sold as a stand alone device, in which various third party carriers (i.e. taxi companies, billboard owners, etc.) can purchase and install, a fee would need to be paid to the plurality of owners, by the service provider (entity that operates the advertisement distribution hardware), in order to be provided the opportunity to display advertisements on their mobile display unit. One would have been motivated to provide such a reimbursement in order to maximize the number of display units on which it can provide advertisements, and as a result maximize the fees it charges to entities wishing to advertise on the service.

Claim 13: Boyd discloses the method of claim 1, wherein the fee is charged to a user for the use of the display. (the user is the advertiser using the service) (Col 8, lines 23-65)

Claim 14: Boyd discloses a computer readable medium embodying instructions executable by a processor to perform a method for displaying content on a mobile display device:



- a. Retrieving a plurality of rules stored in the mobile display device from a rule server. (Col 9, lines 43-63; and Col 13, lines 22-37)
- b. Determining a value for each of a plurality of device parameters. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65)
- c. Executing each rule satisfied by the device parameters, wherein the execution is in response to detecting at least one of a radio frequency tag and an infrared tag. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65) (EZ Pass transponders are radio frequency identification tags)
- e. Displaying content according to each satisfied rule, wherein a first satisfied rule specifies that the radio frequency identification tag or the infrared tag be detected and a second satisfied rule specifies a certain demographic determined based upon a product associated with the radio frequency identification tag or the infrared tag. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65) (EZ Pass transponders are radio frequency identification tags)
- f. Determining a monetary charge based on the content displayed and a combination of values associated with each of the satisfied rules, which triggered the display of the content, wherein different rules having different values. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65)

While Boyd does not specifically state that the monetary charge that is determined is variable, he does disclose that the ranking function that determines which advertisement to display can be based the advertising fees generated by displaying the advertisement and/or the strength of match between the

advertisement profile and the customer profile in Col 8, lines 46-51. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include variable monetary charges based upon how strong the match is between the advertisement profile and the customer profile. The rationale for including variable monetary charges is that common sense dictates that for delivering more narrowly targeted advertisements would be greater than the fee for delivering broadly targeted advertisement and in order for Boyd to rank based upon the advertising fees, there must be some variability in the fees charged for the various advertisements. Without such variability the fees would be the same for all advertisements and ranking based on fees would not be possible.

Claim 15: Boyd discloses the method of claim 14, wherein at least one rule is defined by a content provider to dynamically control the display of the content according to the device parameters. (Col 8, lines 23-65)

Claim 16: Boyd discloses the method of claim 14, further comprising receiving a rule trigger from a location handler and updating the positional parameter upon receiving the rule trigger from the location handler. (Col 7, lines 25-57; Col 8, lines 23-65; Col 12, lines 14-40; and Col 13, lines 29-37)

Claim 18: Boyd discloses the method of claim 14, further comprising:

- a. Receiving a rule trigger from a signal handler . (Col 7, lines 25-57; Col 8, lines 23-65; and Col 9, lines 26-63)
- b. Interpreting an input signal. (Col 6, lines 35-58)
- c. Generating a programmatic event flag upon receiving a rule trigger from the signal handler. (Col 6, lines 35-58)

Claim 19: Boyd discloses the method of claim 18, wherein the step of generating a programmatic event flag further comprises the step of generating a reply signal. (Col 6, lines 35-58; and Col 13, lines 5-67)

Claim 20: Boyd discloses a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method steps for displaying content on a display device, the method steps comprising:

- a. Retrieving a plurality of rules for the display of content, wherein the content is provided by a content provider. (Col 9, lines 43-63; and Col 13, lines 22-37)
- b. Updating a plurality of device parameters, wherein at least one device parameter is updated in response to detecting one of a radio frequency identification tag and an infrared tag provided to at least one spectator. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65) (EZ Pass transponders are radio frequency identification tags)

- c. Determining a rule trigger for triggering at least one rule of the plurality of rules according to the plurality of device parameters. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65)
- d. Executing a trigger rule for causing the display of the content on the display device, wherein the triggered rule specifies that the spectator be detected, wherein the spectator is detected by a receiver which detects the radio frequency identification tag or the infrared tag provided to the spectator. (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65) (EZ Pass transponders are radio frequency identification tags)
- e. Determining a fee according to at least one device parameter upon executing a rule for the display of content, wherein the content provider is charged the fee (Col 6, lines 16-21; Col 7, lines 25-57; Col 8, lines 23-65), wherein the method step of determining a fee further comprises:
  - i. Determining a value for each of the device parameters. (Col 8, lines 23-65)
  - ii. Determining at least one device parameter satisfying the triggered rule. (Col 8, lines 23-65)
  - iii. Determining the variable fee dynamically for each display of the content according to a combined value of the device parameters currently satisfying the triggered rule. (Col 8, lines 23-65)

While Boyd does not specifically state that the monetary charge that is determined is variable, he does disclose that the ranking function that determines

which advertisement to display can be based the advertising fees generated by displaying the advertisement and/or the strength of match between the advertisement profile and the customer profile in Col 8, lines 46-51. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include variable monetary charges based upon how strong the match is between the advertisement profile and the customer profile. The rationale for including variable monetary charges is that common sense dictates that for delivering more narrowly targeted advertisements would be greater than the fee for delivering broadly targeted advertisement and in order for Boyd to rank based upon the advertising fees, there must be some variability in the fees charged for the various advertisements. Without such variability the fees would be the same for all advertisements and ranking based on fees would not be possible.

### ***Response to Arguments***

4. Applicant's arguments filed March 11, 2004 have been fully considered but they are not persuasive.

a. The applicant argues that the examiner has misinterpreted the limitation of the claim which states "preventing the display of a second portion of the content according to a second satisfied rule of the two trigger rules". The applicant asserts that there is no requirement that the rule be logically positive or negative. The examiner agrees that there is no patentably distinct difference between a

rule written as logically positive as opposed to a rule written as logically negative.

The claim indicates that the plurality of rules are associated with controlling the display of content. Thus a logically positive rule such as "display content if the user is a male" can also be written as a logically negative rule such as "do not display content if the user is not a male", or written another way "do not display content if the user is a female". The first rule, when satisfied, results in the display of content when the user is a male. The second and/or third rule, when satisfied, results in the prevention of display when the user is a female. The decision as to how one creates the rules is merely a matter of design choice.

b. The applicant argues that Boyd links fees only with ads, and that the fees have no connections with the described rank. The applicant asserts that in the instant invention, the variable monetary charge is based on the content displayed and a value associated with each satisfied rules, which triggered the display of the content and that the Boyd reference discloses rank as a measure used in selecting content instead of as a rule that may be satisfied. However, the applicant is attempting to interpret the limitations of the claim in a more narrow fashion than required by the claim limitations as currently written. The claim indicates that only two rules are required to be satisfied. The first rule is that a radio frequency identification tag or an infrared tag be detected. The second rule is associated with demographics. This does not require that there be more than one type of demographic requirement, nor does it require that there be only one demographic requirement. The first rule has a value associated in that if no

detection occurs no content is shown and thus no charge occurs. Once the first rule is satisfied the next determination is which content should be displayed based upon the demographics. Boyd discloses ranking the advertisements based upon the strength of match between the demographics of the user and the demographics required by the content provider in Col 8, lines 46-51. Thus it is clear that the ranking in Boyd is associated with the demographics of the second rule. The indication of variable charges based upon how strongly the demographics matched is predicated on the fact that more narrowly targeted the demographic requirements are would obviously result in a higher fee when display occurs. Contrary to the applicants assertion, the combination of values in the instant application is not required to be related to any specific combination of demographic requirements. Rather, the combination of values merely the combination of the value that a tag is detected and an ad is displayed. If the applicant desires to incorporate more narrowly defined rules and variable values associated with specific demographic requirements as well as require that more than the detection of a tag and a determination of a demographic are the only rules that require satisfaction, the claims would require further search and/or consideration in light of the amendments presented.

c. The applicant argues that Boyd fails to teach determining the variable fee dynamically for each display of the content according to a combined value of the device parameters currently satisfying the triggered rule. Boyd discloses the association of fees with advertisements and that the determination of an optimal

advertisement to display is based upon the advertising fees associated with an advertisement and the strength of match between the advertisement profile and the consumer profile in Col 8, lines 46-65. The fact that an advertisement with a stronger match would result in a higher fee is indicated by the rationale used in the obviousness rejection. The limitations of the claims as currently written are broad enough to encompass one device parameter being used (the applicant uses the term at least one, which includes one and only one); as such the valuation based upon a strength of match between the advertisement and the customer profile satisfies the limitations as currently written.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN VAN BRAMER whose telephone number is (571)272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J.V.  
/J. V./  
Examiner, Art Unit 3622

/Eric W. Stamber/  
Supervisory Patent Examiner, Art Unit 3622